



Published on *Arkansas Judiciary* (<https://courts.arkansas.gov>)

---

## Rule 2. One Form Of Action.

There shall be one form of action to be known as "civil action."

Addition to Reporter's Notes, 2001 Amendment: - The second sentence, which provided that actions in equity were to be brought in chancery court and actions at law in circuit court, has been deleted in conformity with Constitutional Amendment 80, under which the circuit courts are the state's "trial courts of original jurisdiction." The effect of this change in the rule is to merge law and equity, as contemplated by Amendment 80. As the U.S. Supreme Court observed with respect to the corresponding federal rule, "law and equity are procedurally combined; nothing turns now upon the form of the action or the procedural devices by which the parties happen to come before the court." *Ross v. Bernhard*, 396 U.S. 531, 540 (1970).

The merged system is to be contrasted with and distinguished from the prior practice in Arkansas during the period in which chancery courts had not been created in all counties. In counties without chancery courts, the circuit court "was a court of dual jurisdiction, the judge presiding in one division or 'on the law side' as a superior court of common law, and also sitting in chancery as judge of a court of equity ... ." *Morgan Utilities, Inc. v. Perry County*, 183 Ark. 542, 547, 37 S.W.2d 74, 77 (1931). With the merger of law and equity, there are not separate law and equity "sides" of the circuit court.

Although law and equity have been merged, equitable principles may be applied where appropriate. This has been so in the federal courts. E.g., *Stainback v. Mo Hock Ke Lok Po*, 336 U.S. 368, 382 n.26 (1949) ("Notwithstanding the fusion of law and equity by the Rules of Civil Procedure, the substantive principles of Courts of Chancery remain unaffected"); *In re United States Brass Corp.*, 110 F.3d 1261, 1267 (7th Cir. 1997) ("Ever since law and equity were merged in the federal courts . . . more than a half century ago, the courts have had a free hand in importing equitable defenses into suits at law"). Moreover, the merger does not alter substantive rights. *Grupo Mexicano de Desarrollo, S.A.*, 527 U.S. 308, 322 (1999).

### History Text:

History. Amended May 24, 2001, effective July 1, 2001

### Associated Court Rules:

Rules of Civil Procedure

### Group Title:

I. Scope of Rules - One Form of Action

---

**Source URL:** <https://courts.arkansas.gov/rules-and-administrative-orders/court-rules/rule-2-one-form-action>